

Office of the Secretary of Defense

§ 192.3

AUTHORITY: 42 U.S.C. 3601 *et seq.*

SOURCE: 55 FR 6248, Feb. 22, 1990, unless otherwise noted. Redesignated at 56 FR 32964, July 18, 1991.

§ 192.1 Purpose.

This part:

- (a) Revises 32 CFR part 192.
- (b) Revises the references, policies, and procedures covering off-base housing and fair housing enforcement.
- (c) Outlines discrimination complaint inquiries or investigative procedures and hearing requirements.
- (d) Deletes the requirement for each Military Department to submit a semi-annual housing discrimination report to the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)).
- (e) Requires each Military Service to report to the ASD(FM&P) any housing discrimination cases and their results in their Annual Military Equal Opportunity Assessment Report to the ASD(FM&P).
- (f) Requires each Military Department to maintain all completed or resolved housing discrimination cases.
- (g) Emphasizes liaison with other Government (local, State, or Federal) agencies.

[55 FR 6248, Feb. 22, 1990. Redesignated and amended at 56 FR 32964, July 18, 1991]

§ 192.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Joint Chiefs of Staff (JCS), the Joint Staff, the Unified and Specified Commands, the Inspector General of the Department of Defense (IG, DoD), the Uniformed Services University of the Health Sciences (USUHS), the Defense Agencies, and DoD Field Activities (hereafter referred to collectively as “DoD Components”). The term “Military Services,” as used herein, refers to the Army, Navy, Air Force, and Marine Corps. DoD civilian employees (as defined in § 192.3) will be offered the same services that members of the Armed Forces receive.

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§ 192.3 Definitions.

Agent. Real estate agency, manager, landlord, or owner of a housing facility doing business with DoD personnel or a housing referral service (HRS).

Area outside the United States. Foreign countries where DoD personnel reside.

Commander. The military or civilian head of any installation, organization, or agency of the Department of Defense who is assigned responsibility for the off-base housing program.

Commuting area. That area which is within a 1 hour commute by a privately-owned vehicle during rush hour and no farther than 30 miles from the installation, or within other limits to satisfy mission requirements.

Complainant. A member of the Armed Forces (or authorized dependent designated by the member) or a civilian employee of the Department of Defense (or authorized dependent designated by the civilian employee) who submits a complaint of discrimination under this part.

Discrimination. An act, policy, or procedure that arbitrarily denies equal treatment in housing because of race, color, religion, sex, national origin, age, handicap, or familial status to an individual or group of individuals.

DoD personnel. (1) Members of the Armed Forces (and their dependents) authorized to live off-base.

(2) DoD civilian employees (and their dependents) who are transferred from one place of residence to another because of job requirements or recruited for job opportunities away from their current place of residence in the United States, and all DoD U.S. citizen appropriated fund and nonappropriated fund civilian employees and their dependents outside the United States.

Familial Status. One or more individuals (who have not attained the age of 18 years) being domiciled with a parent or another person having legal custody of such an individual or individuals; or the designee of such parent or other person having such custody, with the written permission of such parent or other person.

Listed facility. A suitable housing facility (not on restrictive sanction) listed with the HRS as available for occupancy by DoD personnel.

Minorities. All persons classified as black (not of Hispanic origin), Hispanic, Asian or Pacific Islander, or American Indian or Alaskan native.

Relief for the complainant. Action taken by a commander for the benefit of a complainant.

Restrictive sanctions. Actions taken by a commander to prevent military personnel from moving to, or entering into a rental, lease, or purchase arrangement with, a housing facility, when its agent has been found to have discriminated against DoD personnel. Restrictive sanctions are effective against the agent and the facility.

Survey. The procedure by which the HRS identifies housing resources to ascertain the availability of housing facilities for occupancy by DoD personnel.

Verifiers. Volunteers used by the commander during the course of a housing discrimination investigation to determine if, in fact, housing discrimination is being practiced by an agent, as alleged. Verifiers are not required to be prospective tenants.

§ 192.4 Policy.

It is DoD policy that under DoD Directive 1350.2¹ the Department of Defense is fully committed to the goal of obtaining equal treatment for all DoD personnel. Specific guidance on off-base housing and fair housing enforcement is as follows:

(a) *National Housing Policy.* Federal law prohibits discrimination in housing in the United States against any person because of race, color, religion, sex, age, national origin, handicap, or familial status.

(1) Title VIII of P.L. 90-284 contains the following:

(i) The fair housing provisions.

(ii) Outlines the responsibilities of the Secretary of Housing and Urban Development (HUD) with regard to Public Law 90-284.

(iii) Requires all Executive Departments and Agencies to administer housing and urban development programs and activities under their juris-

diction in a manner that shall reflect “affirmatively” the furthering of title VIII.

(2) Title IX of Public Law 90-284 makes it a crime to intimidate willfully or interfere with any person by force or threat because of that person’s activities in support of fair housing.

(3) Title 42 U.S.C. 1982 prohibits discrimination in housing in the United States. This statute protects DoD personnel.

(4) Public Law 100-430 amends title VIII of Public Law 90-284 by revising the procedures for the enforcement of fair housing requirements and adding protected classes of individuals.

(5) Title VIII of Public Law 90-284, as amended by Public Law 100-430, does not limit the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Additionally, provisions of such title VIII regarding familial status do not apply with respect to housing intended for, and solely occupied by, persons 62 years of age or older or intended and operated for occupancy, but at least one person 55 years of age or older. For guidance regarding housing occupied by those 55 years of age or older, use the statutory provision at section 805 b(2)(c), 102 Stat. 1623, of Public Law 100-430.

(b) *DoD Fair Housing Policy.* The Department of Defense intends that Federal fair housing law shall be supported and that DoD personnel shall have equal opportunity for available housing regardless of race, color, religion, sex, age, national origin, handicap, or familial status.

(1) That policy includes the objective of eliminating discrimination against DoD personnel in off-base housing. That objective is not achieved simply by finding a place to live in a particular part of town or in a particular facility for a specific person.

(2) The intent is achieved when a person meeting the ordinary standards of character and financial responsibility is able to obtain off-base housing equally as any other person anywhere in the area surrounding a military installation, without suffering discrimination based on race, color, religion,

¹Copies of all DoD issuances listed in this part may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.